



Practitioner's Docket No. U-012473-1

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Antonio LOPEZ-CABRERA, et al  
Serial No.: 09/660,022 Group No.: 1615  
Filed: September 12, 2000 Examiner: T. Ware  
For: SOLID ORAL PHARMACEUTICAL FORMULATION OF MODIFIED RELEASE THAT  
CONTAINS AN ACID LABILE BENZIMIDAZOLE COMPOUND

Assistant Commissioner for Patents  
Washington, DC 20231

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES  
(37 C.F.R. 1.191)

NOTE: An appeal may be based on one rejection in a prior application and one rejection in a continuing application. Notice of Oct. 10, 1997, 62 F.R. 53131, at 53167.

NOTE: There is no requirement for a notice of appeal to: (1) be signed; or (2) identify the appealed claims. Notice of Oct. 10, 1997, 62 F.R. 53131, at 53167.

Applicant hereby appeals to the Board from the decision of the Primary Examiner, mailed April 23, 2002, finally rejecting claims 2 - 25.

The item(s) checked below are appropriate:

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- ☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, DC 20231.

Date: October 22, 2002

FACSIMILE

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Signature

JANET I. CORD

(type or print name of person certifying)



1. STATUS OF APPLICANT

This application is on behalf of

- ☒ other than a small entity.  
☐ a small entity.

A statement:

- ☐ is attached.  
☐ was already filed on \_\_\_\_\_.

2. FEE FOR FILING NOTICE OF APPEAL

Pursuant to 37 C.F.R. 1.17(b), the fee for filing the Appeal Brief is:

- |   |          |
|---|----------|
| <input type="checkbox"/> small entity                         | \$160.00 |
| <input checked="" type="checkbox"/> other than a small entity | \$320.00 |

Notice of Appeal fee due \$320.00

3. EXTENSION OF TERM

*NOTE: 37 C.F.R. § 1.704(b) "... an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."*

*NOTE: The time periods set forth in 37 C.F.R. 1.191 are subject to the provision of § 1.136 for patent applications. 37 C.F.R. 1.191(d). (But see 37 C.F.R. 1.645 for extension of time in interference proceedings and 37 C.F.R. 1.550(c) for extension of time in reexamination proceedings).*

*(complete (a) or (b), as applicable)*

The proceedings herein are for a patent application and the provisions of 37 C.F.R.1.136 apply.

- (a) ☒ Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 400.00	\$200.00
<input checked="" type="checkbox"/> three months	\$ 920.00	\$460.00
<input type="checkbox"/> four months	\$1,440.00	\$920.00

Fee \$920.00

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

- (a) ☐ An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

or

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

#### 4. TOTAL FEE DUE

The total fee due is:

Notice of Appeal fee \$ 320.00

Extension fee (if any) \$ 920.00

**TOTAL FEE DUE \$ 1,240.00**

#### 5. FEE PAYMENT

☒ Attached is a check in the sum of \$ 1,240.00.

☐ Charge Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_.

A duplicate of this transmittal is attached.

#### 6. FEE DEFICIENCY

*NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in resuming the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G 31-33.*

- ☒ If any additional extension and/or fee is required, this is a request therefor and to charge Account No. 12-0425.

AND/OR

- ☒ If any additional fee for claims is required, charge Account No. 12-0425.



**SIGNATURE OF PRACTITIONER**

Reg. No. 33,778

JANET I. CORD  
*(Type or print name of practitioner)*

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